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## United States Senate

COMMITTEE ON SMALL BUSINESS  
WASHINGTON, DC 20510-6350

February 1, 2001

The Honorable Christine Todd Whitman  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Whitman:

Let me first congratulate you on your confirmation as Administrator of the U.S. Environmental Protection Agency (EPA/Agency) and say how much I look forward to working with you to protect the environment for our families and communities. The purpose of this letter is to bring to your attention a set of issues which flow from my role as Chairman of the Committee on Small Business (Committee). It is through this committee, and our sister committee in the House, that Congress ensures agencies such as EPA consider and involve small businesses in rulemakings as required by EPA policy and federal statute. A current opportunity for EPA to meet this obligation exists in EPA's proposal to ban the substance acrylamide.

The industry using acrylamide is composed mainly of small businesses including a Missouri constituent of mine. Acrylamide grouts are used to repair and rehabilitate sewers. EPA has been considering whether to ban acrylamide grouts for nearly ten years. In 1991, EPA proposed a ban of the grouts, which were widely and successfully used for many years in the sewer service industry. Concerns about the use of acrylamide extend not to the environment or general public, but only occupationally to grouting applicators. However, because EPA lacked the data needed to support the proposed ban, it has been unable to issue a final rule. Indeed, the Office of Management and Budget rejected several attempts by EPA to finalize the rule.

The lingering cloud over the outcome of this rulemaking is hurting industry and municipal agencies that are acrylamide's major users. While EPA could not finalize the rule, it did not withdraw the proposal. From the standpoint of durability and cost-effectiveness, industry representatives indicate that there are no truly acceptable substitutes for acrylamide grouts. Municipalities are caught between concern over a potential acrylamide ban and overpaying to use an alternative with a questionable lifespan. For this reason, municipalities are delaying needed sewer repair and rehabilitation. These delays lead to environmental and health concerns from old and overstressed municipal sewers risking leakage in Missouri and across the country.

Additionally, EPA's inaction in this matter negatively impacts small business. A constituent small business of mine with 23 employees was active in the sewer repair business for 45 years. This constituent has used acrylamide without incident since 1966. In part due to the uncertainties over the future use of acrylamide, my constituent was forced to sell its business to a larger out-of-state competitor.

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However, at the end of last year, EPA indicated that it intends to resolve this rulemaking this year with either final promulgation or withdrawal. I want to ensure that EPA's resolution of this rulemaking fully considers and involves small business as required by the Small Business Regulatory Enforcement Fairness Act (Red Tape Reduction Act) and EPA policy implementing the Act.

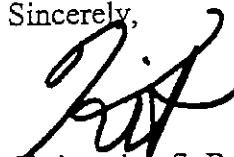
The Red Tape Reduction Act exists to ensure EPA fully considers the impacts of its rulemakings on small businesses like my constituent. EPA policy supports this mandate with mechanisms to include outreach to small business at the beginning and throughout the rulemaking process. This allows EPA to gauge the impacts its rulemaking will have on small business. If need be, EPA allows formal participation by small business in drafting the rule to minimize its impacts on small business while still meeting the environmental goals of the rule.

However, in several recent rulemakings important to small business, EPA abrogated its duty to include small business in a meaningful way. In one case, EPA analyzed the small business impacts of a proposed rule without talking to affected small business or their representatives. EPA then used a methodology which masked the small business impacts of the rule. In another case, EPA failed to consider entire industry sectors dominated by small business and affected by the proposed rule.

EPA can easily meet its small business obligations if it follows its own small business policy of outreach, screening and analysis. The only requirement is early and informed attention to this issue by the program office promulgating the rule and small business ombudsman and advocacy personnel within the Agency. The acrylamide rulemaking is somewhat unique in that a proposed rule already exists. However, that proposal was published nearly ten years ago, before the Red Tape Reduction Act was enacted, and in a form which may differ substantially from current forms EPA may be considering.

Therefore, to ensure this rulemaking receives the full small business attention it deserves and statute and EPA policy require, I request the appropriate EPA program office and small business personnel meet with staff from the Committee on or about Thursday, February 28, 2001 in 428A Russell Senate Office Building. The purpose of the meeting will be to discuss how EPA is considering the impacts of its rulemaking on small business as it moves forward to promulgate or withdraw the rule. If you have any questions regarding these issues, please contact John Stoodly at 224-5175. Thank you for your attention to this matter.

Sincerely,



Christopher S. Bond  
Chairman